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Does Sales Tax Apply to Event Activities of a Non-Profit or Exempt Charitable Organization?

The sales tax requirements for non-profit and exempt charitable organizations can be confusing. When non-profit or exempt charitable organizations are putting on a fundraiser, raffle, or auction, the last thing on the event planner's mind is whether sales tax applies. However, it is important to determine whether sales tax applies to these activities. In general, there is no exemption from California sales and use tax for the sales and purchases by non-profit and exempt charitable organizations in California. Instead, there are specific rules that exempt some, but not all, purchases or sales by a non-profit or exempt charitable organization.

To help you better understand the rules pertaining to sales tax for event activities by non-profit and exempt charitable organizations, here are some frequently asked questions and answers, as well as available resources from the State Board of Equalization (BOE) to assist you in determining your sales tax requirements.

Admission Tickets

Q: When does sales tax apply to a non-profit or exempt charitable organization's event ticket?

A: If the charge for the ticket is solely for admission to enter a venue, sales tax does not apply. For example, the sale of a ticket that is solely for admission to a food festival where food is to be purchased separately would not be taxable. However, sales tax may apply when the admission price includes a transfer of tangible personal property (e.g., food and beverages).

Q: Should a non-profit or exempt charitable organization charge tax if food or meals are included in the price of a ticket?

A: It depends. The sales of meals and food by certain organizations (e.g., religious organizations, nonprofit veterans' organizations, etc.) in certain circumstances may be exempt from tax, which would make the entire ticket charge nontaxable. For other organizations, the entire ticket charge is taxable unless the organization lists the taxable charges (i.e., food and beverages) separately on the event tickets and the organization keeps separate records of taxable and nontaxable charges.

For example, where a \$100 ticket for a fundraising dinner states that the ticket price includes \$25 for dinner and drinks and the event income records reflect this breakdown, tax applies only to the \$25 charge listed for dinner and drinks. (See BOE Publication 18, *Nonprofit Organizations*, for a more detailed discussion.)

Q: What happens if the non-profit or exempt charitable organization serves just a few refreshments?

A: If the ticket does not mention refreshments and the organization serves only an insignificant amount of food at the event, then sales tax does not apply to the sale of the ticket. For example, sales tax does not apply to the ticket charge where an organization puts on a "Meet Your Community Heroes Night" and serves only coffee and tea.

Sales of Food, Beverages, and Meals

Q: Should a non-profit or exempt charitable organization charge tax on sales of food or beverages not included in the ticket price at events?

A: It depends. The sales of food and beverages by certain organizations in certain circumstances may be exempt from tax. For other organizations, the taxability of sales of food and beverages depends on a number of factors including whether it is sold in places where admission is charged, whether it is sold where "dining facilities" are provided, and the type of food and beverage provided. (See BOE Publication 18, *Nonprofit Organizations*, for a more detailed discussion.)

The following provides a general guide as to when sales of food or beverages are subject to tax:

Food or Beverage Items	Sales Tax?
Carbonated beverages, such as soft drinks and "fizzing"(carbonated) bottled water	Yes
Non-carbonated beverages, such as fruit juices and "non-fizzing" bottled water	No
Hot food sold above room temperature, such as hot sandwiches, hot soup, and hamburgers. <u>Note:</u> Individual hot drinks and bakery goods are not taxable.	Yes
Cold food sold "to-go," such as candy and potato chips sold where there is no on-site dining facility	No
Cold food served "sit down," such as a cold sandwich sold where there is an on-site dining facility	Yes
Hot food items served in combination packages, such as hot soup sold with a cold sandwich and a cookie	Yes
Cold food items served in combination packages, such as a cold sandwich sold with potato chips and fruit juice	No
Carbonated beverages served in combination packages, such as a soda sold with a cold sandwich and a cookie. <u>Note:</u> Only the soda is taxable.	Yes

Q: What happens if a non-profit or exempt charitable organization uses a caterer or an event planner?

A: If the organization contracts with a caterer or other business to serve the meals at the event, the caterer or other business is responsible for reporting and paying the tax on the sale of the meals based on the amount that the caterer or other business charges the organization. However, the organization is responsible for reporting and paying the sales tax on all other taxable sales of food and merchandise. (See BOE Publication 18, *Nonprofit Organizations*, for further details.)

Raffles and Auctions

Q: Does sales tax apply to the price of raffle tickets?

A: It depends. Tax applies to ticket charges for raffles, games, or game booths where every ticket purchaser is guaranteed to win a prize, even though the prizes may have little value. For example, if every purchaser is guaranteed a prize and the raffle ticket price is \$10, sales tax applies to the entire \$10 ticket charge unless the ticket contains a statement that the ticket price includes sales tax reimbursement.

However, sales tax does not apply to the price of raffle tickets where prizes are not guaranteed to every ticket purchaser. For example, if the organization sells 500 tickets to raffle 10 bicycles as prizes, then sales tax would not apply to the charges for the tickets.

Q: Does sales tax apply to items sold at auctions?

A: Tax generally applies to the sale of any items sold at auctions, silent auctions, rummage sales, bazaars, carnival booths, community events, and other fundraisers. However, auctions by organizations to benefit homeless shelters may be exempt from tax when certain conditions are met. (See BOE Publication 18, *Nonprofit Organizations*, for a further discussion.)

Seller's Permits and Recordkeeping

Q: Does the non-profit and exempt charitable organization need to get a seller's permit?

A: Yes. If the organization makes sales of tangible personal property that are subject to sales tax in California, it must obtain a seller's permit, which is available free of charge either online or from a local BOE office. It is the organization's responsibility to then file sales and use tax returns with the BOE and pay sales and use tax on an annual, quarterly, or monthly basis.

If the organization holds no more than three fundraising events with taxable sales each year, it may obtain a temporary seller's permit for each event. For holders of temporary seller's permits, the return and payment of tax are due on the last day of the month following the month in which the event is held. If the organization conducts more than three fundraising events each year, or if its taxable sales activities occur continuously, it should apply for a permanent seller's permit. (See BOE Publication 18, *Nonprofit Organizations*, and BOE Publication 73, *Your California Seller's Permit*, for more details.)

Q: What records must the organization keep?

A: The organization must keep records that substantiate gross receipts from all sales of tangible personal property, all deductions claimed in filing sales and use tax returns, and the total purchase price of all tangible personal property purchased for sale or use by the organization. The organization should keep separate records for each event that clearly distinguish between taxable and nontaxable sales. These records should be kept for four years.

Available Resources

- **Publications:** The following are free publications that are available at: www.boe.ca.gov:
 - Publication 18, *Tax Tips for Nonprofit Organization*
 - Publication 51, *Guide to Board of Equalization Services*
 - Publication 73, *Your California Seller's Permit*
- **Obtaining a Seller's Permit:** To apply for a permit, visit or call one of the BOE's local offices to obtain an application or download from www.boe.ca.gov and mail or hand-deliver the completed permit application to the BOE.
- **For Further Information:** To obtain further information, please call the BOE Information Center at: 1-800-400-7115, or visit www.boe.ca.gov.
- **Free Classes:** Some local BOE offices offer basic sales and use tax classes. Visit www.boe.ca.gov for information about class schedules and locations nearest you.
- **Free Seminars:** Free one-day tax seminar designed especially for nonprofit and exempt charitable organizations are sponsored by the BOE and presented several times each year throughout California with informative presentations by the BOE, Internal Revenue Service, Franchise Tax Board, and the Employment Development Department. For additional information regarding the dates and locations of upcoming seminars, contact the BOE at 916-324-2068 or visit www.boe.ca.gov.